

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

| | | |
|---------------------------------|---|---------------------------|
| Ephrain Reliford, Jr., #217462, |) | C/A No. 3:06-1259-JFA-JRM |
| |) | |
| Plaintiff, |) | |
| v. |) | ORDER |
| |) | |
| Brent Alexander, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

This matter is before the court for review of the Magistrate Judge's Report and Recommendation made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1).

The *pro se* plaintiff, Ephrain Reliford, initiated this action against the defendant in the

Court of Common Pleas of Kershaw County, South Carolina on April 27, 2004. The defendant, Brent Alexander, removed the state action to this court on April 26, 2006. The plaintiff asserts that the defendant violated his constitutional rights under *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388, 397 (1971). Specifically, the plaintiff claims that defendant obtained his personal property, namely a collection of old coins, without a warrant and still maintains possession of such personal property.

The plaintiff has filed a motion to remand this action, asserting that the defendant's removal was premature. Defendant has filed a motion to dismiss the plaintiff's claims contending that the action is barred by the applicable statutes of limitations because it was filed more than ten years after the alleged incident.

In a detailed and comprehensive Report and Recommendation filed with the court on January 5, 2007, the Magistrate Judge recommends that (1) the plaintiff's motion to remand be denied; and (2) defendant's motion to dismiss be granted.

The parties were advised of their rights to file objections to the Report. Plaintiff filed his objections to the Report on January 26, 2007, repeating the same arguments made earlier in this matter and considered by the Magistrate Judge in his Report.

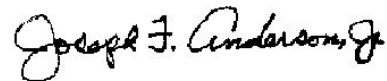
In light of the standard set out above, the court has reviewed, *de novo*, the record, the law, the Report and Recommendation of the magistrate judge, together with the plaintiff's objections thereto, and finds that the Magistrate Judge's Report fairly and accurately

summarizes the facts and applies the correct principles of law. The court, therefore, adopts the recommendation of the Magistrate Judge in full and incorporates this Report by specific reference.¹

It is therefore ordered that plaintiff's motion to remand is denied and defendant's motion to dismiss is hereby granted. The plaintiff's objections are overruled, and the Report and Recommendation, as modified herein, is incorporated by reference and adopted as the order of this court.

IT IS SO ORDERED.

February 8, 2007
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge

¹ The Report contains two errors, which the court corrects as follows: Page 2, line 9 should read, "On October 25, 2004, the state court, at Plaintiff's request, filed an entry of default against Defendant." Page 4, line 8 should read, "Even if 28 U.S.C. § 1446(b) applies, the notice of removal was not untimely because Plaintiff has not shown that Defendant did not file notice within thirty days of service of the summons and complaint."